

UNITED STATES MARINE CORPS  
Marine Corps University  
*User's Guide to Marine Corps Values*

**SEXUAL HARASSMENT**

1. Introduction. All Marines share responsibility for maintaining the proper environment of mutual respect and confidence within their units. Teamwork, *esprit de corps*, and identity with a common purpose are the key aspects which make our Marine Corps what it is today; a proud, effective military force. Sexual harassment is one type of discriminatory behavior that erodes morale and discipline and is capable of destroying unit readiness.

2. Overview. The purpose of this discussion is to understand the problems of sexual harassment to include:

- a. The nature of sexual harassment.
- b. Marine Corps policy concerning sexual harassment.
- c. How to deal with sexual harassment.

3. References

DoD Directive 1350.2  
SECNAVINST 5300.26  
MCO 5300.10A  
MCO P5354.1(C)  
Manual for Courts Martial

4. Discussion Leader Notes. Not applicable.

5. Discussion

a. Sexual harassment is a form of discriminatory behavior that erodes morale and discipline and, if not eliminated, can have an adverse effect on mission readiness. The Secretary of Defense has issued policy guidance which defines sexual harassment and emphasizes the Department's policy that sexual harassment will not be condoned or tolerated.

b. The Marine Corps policy on sexual harassment is based upon the references. Sexual harassment is unacceptable behavior for military or civilian personnel. Such behavior will be dealt with immediately through the leadership/supervisory structures of

the Marine Corps, to include the Uniform Code of Military Justice.

(1) Before we begin our discussion, let's define sexual harassment.

(a) Sexual harassment is a form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

[1] submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, career, or

[2] submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or

[3] such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

(b) This definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive. {Note: "workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day}.

(c) Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

(2) To ensure an understanding of the definition, let's discuss the key terms. Have the group discuss each key term individually.

(a) Career or employment decisions. The decision must concern some aspect of the employment, career, pay, duty assignment, benefits, or privileges of another.

(b) Condition. To make some aspect of another's employment, career, pay, duty assignment, benefits, or privileges contingent upon fulfillment of some requirement the maker thereof has no right to impose.

(c) Discrimination. For purposes of this instruction, discrimination means the illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or sex. Sex discrimination refers to the practice of wrongfully treating men and women differently in the workplace, solely because of their sex. The Supreme Court has held that sexual harassment of both men and women is a form of sex discrimination.

(d) Hostile environment. A type of sexual harassment that occurs when the unwelcome sexual behavior of one or more persons in a workplace produces a work atmosphere which is offensive, intimidating, or abusive to another person using the reasonable standard.

(e) "Quid Pro Quo" or "this for that." A type of sexual harassment that occurs when submitting to or rejecting such behavior is used as a basis for decisions affecting any person's employment, job, pay, or career. This could be a promise of employment, a promotion, a threat of or an actual demotion, a duty assignment, or a positive or negative performance evaluation.

(f) Reasonable person standard. An objective test used to determine if behavior constitutes sexual harassment. This standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. The reasonable person standard considers the recipient's perspective and not stereotyped notions of acceptable behavior. For example, a work environment in which sexual slurs, the display of sexually suggestive calendars, or other offensive sexual behavior abound can constitute sexual harassment even if other people might deem it to be harmless or insignificant.

(g) Recipient. Anyone subjected to sexual harassment as defined in this instruction.

(h) Reprisal. The wrongful threatening or taking of either unfavorable action against another or withholding favorable action from another solely in response to a report of sexual harassment or violations of this instruction.

(i) Severe or pervasive. These terms derive their meaning in the context of the conduct engaged in and the surrounding facts and circumstances. Obvious examples of severe conduct include indecent assaults or offensive requests for sexual favors. Pervasive conduct is that which is repeated or widespread, or evidences a pattern.

(j) Sexual favors. Sexual privileges that are granted or conceded in the work environment.

(k) Sexual nature. Conduct that a reasonable person would find sexual in nature in light of the relevant facts and circumstances. Behavior does not need to be overtly sexual if it creates an offensive work environment. Examples include but are not limited to sexist remarks or slurs, sexual advances, displays of pornographic material, touching, language, gestures, mannerisms, and similar behavior.

(l) Unwelcome advances. Conduct that is not solicited and which is considered objectionable by the person to whom it is directed and which is found to be undesirable or offensive using a reasonable person standard.

(m) Work environment. The workplace or any other place that is work-connected, as well as the conditions or atmosphere under which people are required to work. (An expansive term for military members and may include conduct on or off duty, 24 hours a day.)

(3) Refer back to the definition and have the group discuss the two types of sexual harassment.

(a) Subparagraphs 1 and 2 of the definition are "quid pro quo" sexual harassment. A violation of these paragraphs means a person had made an employment decision based on whether a person submitted or refused to submit to sexual advances, requests for sexual favors, or other conduct of a sexual nature.

(b) Subparagraph 3 is referring to creating an intimidating, hostile, or offensive work environment. This type of harassment interferes with the individual's work performance.

(4) Discuss the three types of sexual harassment and have the group give examples.

(a) Verbal Sexual Harassment. Requires conscious effort, such as:

- [1] Whistling or making cat calls at someone.
- [2] Sexual comments about clothing or body.
- [3] Personal sexual questions.
- [4] Telling jokes or stories.
- [5] Turning discussions into sexual topics.
- [6] Using sexual connotations or innuendoes.
- [7] Telling lies or spreading rumors about a person's personal sex life.

(b) Nonverbal sexual harassment. Like verbal behaviors, nonverbal behaviors that constitute sexual harassment take on many forms. Some examples are:

- [1] Paying unwanted attention to someone by staring at their body.
- [2] Displaying sexually suggestive visuals (centerfolds, calendars, cartoons, etc.).
- [3] Ashtrays, coffee cups, figurines, and other items depicting sexual parts of the anatomy through actuality or innuendo.
- [4] Sexually oriented entertainment in organizations, base facilities, or officially sanctioned functions.
- [5] Making sexually suggestive gestures with hands or through body movement (blowing kisses, licking lips, winking, lowering pants, raising skirt, etc.).

(c) Physical Sexual Harassment. Must be unwelcome and of a sexual nature to constitute a violation or policy.

[1] Hanging around, standing close to or brushing against a person.

[2] Touching a person's clothing, hair, or body.

[3] Hugging, kissing, patting, or stroking.

[4] Touching, pinching, bumping, or cornering.

[5] Blocking a passageway.

(5) Sexual remarks from subtle hints to direct propositions for sexual favors constitute sexual harassment and include, but are not limited to:

(a) Invitations by a senior to a subordinate to lunch, drinks, dinner, having an implied (perceived) purpose of leading to sexual favors.

(b) Threats from hints such as: "Your life would be easier here if you were friendlier," to blunt statements: "If you want that training or assignment, maybe we'd better get to know each other better this evening."

(6) What is the Marine Corps policy on sexual harassment?

Sexual harassment, as defined above, is unacceptable behavior for military or civilian personnel. Such behavior will be dealt with immediately through the leadership/supervisory structures of the Marine Corps, to include the Uniform Code of Military Justice. Leaders and supervisors have a responsibility to create an environment of mutual respect in which all personnel can work toward mission accomplishment.

(7) What is the responsibility of the commander? (Have the group discuss the commander's responsibility and the type of sexual harassment training received in their unit.)

(a) One of the responsibilities of all commanders is to ensure the contents of MCO 5300.10A are brought to the attention of all military members and civilian employees.

(b) Another responsibility of the commander is to conduct training to promote an understanding of sexual harassment and its potential adverse impact on mission readiness.

(8) Have the group discuss the responsibility of the individual Marine.

Every Marine shares responsibility for maintaining proper behavior with one another so that everyone can contribute their best efforts to the accomplishment of the unit mission.

(9) Discuss the responsibilities of the leader in the event of a sexual harassment situation.

(a) The leader must take some form of action. The action taken will be appropriate for the individual situation.

(b) Inform the chain of command, if appropriate.

(c) It may be possible to refer parties involved to support services, such as:

[1] Legal Office

[2] Employee Employment Opportunity Counselor  
(civilians)

[3] Family Service Center

[4] Medical Treatment Facility

[5] Chaplains

[6] Equal Opportunity Advisors

(d) Complaints of sexual harassment will be dealt with by the leader in the same manner as any complaint of violation of the UCMJ. It is the responsibility of the leader to maintain proper standards of behavior by all Marines in accordance with the Marine Corps' traditional requirement for good order and discipline.

(e) Most importantly, the leader is responsible for ensuring that subordinates do not suffer any repercussions for reporting sexual harassment.

(f) Overall, "PREVENTION" of sexual harassment is a leadership responsibility. Such behavior is degrading to the individual, destructive of morale, and is punishable under the Uniform Code of Military Justice.

(10) Discuss with the group, the Informal Resolution System, (IRS). Each student should have a copy of the Resolving Conflict pamphlet (original copy or reproduced) for this portion

of the discussion. (Resolving Conflict pamphlets can be obtained for the unit Equal Opportunity Advisor's Training Information Resources Library, (TIR).

(a) Discuss the "behavior zones" of sexual harassment.

(b) Also, have the group discuss the responsibilities of the:

[1] Recipient

[2] Offending Person

[3] Other Person

[4] Supervisor

(11) What is the impact of sexual harassment on the individual?

(a) Detachment

(b) Denial

(c) Relabeling

(d) Avoidance

(e) Affects their work performance

(f) General psychological well being

(g) Physical health

(12) "The only reason the United States of America needs a Marine Corps is to fight and win wars. Everything else is secondary." Keep this quote in mind from Leading Marines (FMFM1-0) when discussing the impact that sexual harassment has on the mission.

(a) Low morale.

(b) Loss of cohesion.

(c) Undermines readiness and interpersonal work relationship's.

(d) Detracts from the mission.



(13) The best way to prevent sexual harassment is to stop it before it occurs. Have the group discuss "proactive" ways to prevent sexual harassment.

(a) Conduct training.

(b) Talk about situations.

(c) Outline policies.

(d) Use the Training Information Resource Library (TIR).

(e) Use bulletin boards to post regulations and policies.

## 6. Appendices.

Appendix A: Extracts from The Uniform Code of Military Justice

## APPENDIX A

### THE UNIFORM CODE OF MILITARY JUSTICE (UCMJ)

#### SEXUAL HARASSMENT

The discussion leader may find it useful at this point to utilize the following chart showing types of sexual harassment and the appropriate violation of the UCMJ which relates to the conduct. Select a few sample behaviors previously mentioned and ask the members if they can identify whether the behavior is an offense punishable under the UCMJ; if so, can they identify the article. The impact of this exercise should be immediately apparent as the discussion members begin to realize the seriousness of this type of conduct.

#### UNIFORM CODE OF MILITARY JUSTICE ARTICLES RELATING TO SEXUAL HARASSMENT

<u>If The Sexual Harasser:</u>	<u>He/She May Be found Guilty Of:</u>	<u>In Violation of UCMJ Article:</u>
Influences or offers to influence the career, salary or job of another in exchange for sexual favors	Extortion	Article 127
Makes threats to elicit sexual favors	Communicating a threat	Article 134
Offers rewards for or demands for sexual favors	Bribery and graft	Article 134
Makes sexual comments	Indecent, insulting or obscene language or conduct prejudicial to good order and discipline	Article 134
Makes sexual comments	Provoking speech or gestures or disrespect	Articles 89, 91, and 117

Makes sexual contact	Assault	Article 128
	Assault & Battery	Article 128
	Indecent liberties with a female	Article 134
	Rape	Article 120
Engages in sexual harassment to the detriment of job performance	Dereliction of duty	Article 92
Is an officer	Conducting unbecoming an officer	Article 133
Is Commanding Officer	Wrong committed by the Commanding Officer	Article 138